

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Policies,
Procedures and Incentives for Distributed
Generation and Distributed Energy Resources.

Rulemaking 04-03-017
(Filed March 16, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING TURN'S NOTICE OF INTENT
TO CLAIM COMPENSATION**

1. Summary

This ruling responds to the notice of intent to claim compensation (NOIs) filed in this docket by The Utility Reform Network (TURN) pursuant to Public Utilities Code Section 1804.

2. Statutory Requirements Relevant to TURN's NOI

Under § 1804(a)(1), "[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation." It also permits the Commission to accept a late filing where a party could not have reasonably identified issues within 30 days of the prehearing conference.

TURN did not file its NOI within 30 days of the Commission prehearing conference. It explains that it became interested in the proceeding after the Commission changed the scope of its review to include a ten-year solar incentive program. Section 1804(a) permits a customer to file its NOI after the normal date for filing "in cases where...new issues emerge subsequent to the time set for filing...." TURN is correct that the Commission's consideration of a more

elaborate and longer term solar incentive program became an issue in this proceeding only recently. The Commission therefore accepts TURN's NOI late, as it requests.

Section 1804(a)(2) sets forth those items that must be addressed in an NOI. Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b), and identify whether the intervenor is a participant representing consumers, or a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. If the customer category identified is "a representative authorized by a customer," the NOI should identify "the residential customer or customers that authorized him to represent that customer." That identification is needed because this category of customer "connotes a more formal arrangement where a customer, or a group of customers, selects a presumably more skilled person to represent the customers' views in a proceeding." (D.98-04-059, pp. 28-30.) Participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation.

Once the applicable definition of customer is identified, the correct standard of "significant financial hardship" can be applied. Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the required showing may be made in the request for award of compensation. Section 1802(g) defines "significant financial hardship."

“Significant financial hardship” means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.

3. TURN’s NOI

TURN has received a finding of significant financial hardship within one year, by way of ruling in R.04-04-003, issued July 27, 2004. Section 1804(b)(1) provides that such a ruling issued within one year of the commencement of the subject proceeding creates a rebuttable presumption of eligibility. This ruling therefore finds that TURN would experience significant financial hardship by participating in this proceeding.

TURN has been found to be a “customer” as defined in § 1802(b), because it is an organization whose official mission is to represent the interests of utility customers.

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer’s planned participation in the proceeding to the extent this can be predicted. TURN states it expects to be an active party in this proceeding addressing solar incentives.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. TURN’s estimated a total projected budget of \$39,850 for this case, based on proposed hourly rates for its attorneys and consultant.

Like all intervenors, TURN must demonstrate that its participation resulted in a substantial contribution to the proceeding by the unique

presentation of facts or arguments that were relied upon by the Administrative Law Judge (ALJ) or California Public Utilities Commission in resolving this proceeding.

IT IS RULED that:

1. The Utility Reform Network (TURN) is a customer as that term is defined in § 1802(b) and has met the eligibility requirements of § 1804(a).
2. TURN is eligible to seek an award of compensation in this proceeding.

Dated December 13, 2005, at San Francisco, California.

/s/ KIM MALCOLM

Kim Malcolm
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding TURN's Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated December 13, 2005, at San Francisco, California.

/s/ FANNIE SID
Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.